

1 Wednesday, 10 July, 1946

2 - - -

3 INTERNATIONAL MILITARY TRIBUNAL
4 FOR THE FAR EAST
5 Court House of the Tribunal
6 War Ministry Building
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

10 - - -

11 Appearances:

12 For the Tribunal, same as before.

13 For the Prosecution Section, same as before.

14 For the Defense Section, same as before.

15 - - -

16
17 (English to Japanese and Japanese
18 to English interpretation was made by the
19 Language Section, IMTFE.)
20
21
22
23
24
25

A
b
r
:
m
&
M
o
r
s
e

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: All the accused are present
4 except OKAWA and HIRANUMA, who are represented by
5 their counsel.

6 I have here a certificate from the prison
7 medical officer, certifying that HIRANUMA is unable
8 to attend the trial for the time being. Let it be
9 recorded.

10 Does any counsel desire to mention any
11 matter? Mr. Logan.

12 MR. LOGAN: If the Tribunal please, I wish
13 to present a matter at this time on behalf of all
14 of the accused, which we believe to be of vital im-
15 portance in this case. This Tribunal has upon several
16 occasions based its rulings on precedents which have
17 been established at the Nuernberg Trials, and I wish
18 to call your attention to a ruling which was made at
19 the Nuernberg Trial with respect to the admission
20 of interrogatories of the accused.

21 THE PRESIDENT: You are wrong in assuming
22 we have been following Nuernberg slavishly. I have
23 not read the decisions until the last day or two.
24 We are always pleased to have their guidance, and I
25 think in some matters we have followed them. I do

1 not remember any matter in which we have given a
2 different ruling.

3 MR. LOGAN: If my recollection is correct, your
4 Honor, I think it has been mentioned several times
5 as to the rulings that have been made at Nuernberg
6 and they have been followed here.

7 THE PRESIDENT: I will tell you one matter.
8 Lord Patrick has reminded me several times that we
9 are far more liberal to the defense than they are at
10 Nuernberg.

11 MR. LOGAN: May I continue, if the Tribunal
12 please? I think you will follow what I have --

13 THE PRESIDENT: We are not going to have any
14 general discussion on Nuernberg rulings. If you are
15 going to point out a ruling at Nuernberg which we
16 have not followed, you had better wait until the
17 point arises again. I am certainly not going back
18 on any decision of mine because it may have been some-
19 thing different than given at Nuernberg. We are not
20 slavishly following Nuernberg, which I do not think
21 we should do.

22 MR. LOGAN: The point on which I am about
23 to speak, if it please the Tribunal, is now before
24 the Tribunal with respect to these interrogatories
25 which are being read.

1 THE PRESIDENT: You may refer to it.

2 MR. LOGAN: At the close of the Court yes-
3 terday, the prosecution was reading excerpts from a
4 statement which was purported to have been made by
5 the accused ARAKI. Now, the Tribunal's decision
6 on this matter is of extreme importance to all the
7 accused, in view of the fact that many statements
8 of practically all of them were taken while they
9 were at Sugamo Prison, and in all probability the
10 prosecution will offer them in evidence later in the
11 trial and we feel that the decision by the Tribunal
12 on this particular point will act as a precedent with
13 respect to all these statements to be offered later.

14 This Tribunal has previously ruled that
15 where excerpts from documents made by persons other
16 than the accused have been read by the prosecution,
17 that the accused may not read further excerpts from
18 the same document until the defendants' case is
19 reached. Now, with respect to the application of
20 this same ruling to statements by the accused, we
21 contend it should be different. It is sound law, and
22 I believe universally recognized, that where part of
23 a confession or declaration by the accused is
24 offered by the prosecution that the balance of the
25 document may be introduced and excerpts read by the

1 accused on the prosecution's case.

2 THE PRESIDENT: The balance may be tendered
3 and part of an answer not read may be read, but not
4 the whole of the answers. That is what you want to do.
5 If you are right you can insist on the whole of the
6 two interrogations of ARAKI being read immediately.

7 Talking about Nuernberg decisions, I want
8 to remind you, for what it is worth, that there are
9 four nations represented at Nuernberg; those four are
10 represented here and seven other nations besides, and
11 you are wrong if you think we are going to slavishly
12 follow Nuernberg. We pay the greatest respect to
13 their decisions.

14 MR. LOGAN: I am sorry, your Honor, but I
15 think you misunderstood what I said. I specifically
16 said that where part of a confession or declaration
17 is offered by the prosecution, the balance of the
18 document may be introduced and excerpts read by the
19 accused on the prosecution's case. I did not con-
20 tend that we should be permitted to read the entire
21 document.

22 THE PRESIDENT: It is the duty of the pro-
23 secution to read the whole of the answer, if the
24 whole should be read. Otherwise they may mislead
25 the Court.

1 MR. LOGAN: I appreciate that, your Honor,
2 but what we are contending for is this: that there
3 may be some other portion of this declaration or
4 statement which will explain away the portion that
5 the prosecution has read. And that is what we are
6 contending, that we should be permitted on the pro-
7 secution's case to read any other portion of that
8 statement which explains away any excerpts that the
9 prosecution has read; that we should not be required
10 to wait until the prosecution's case is completed,
11 so that then we could put it in on our case, be-
12 cause the decisions in the Nuernberg case, No. 81, 82,
13 83, that procedure was followed there and we contend
14 that the same procedure should be followed here.

15 THE PRESIDENT: Pardon me a couple of
16 minutes, Mr. Logan. Let us do something else.

17 Yes, Mr. Logan, go ahead; continue your
18 argument.

19 MR. LOGAN: Well, as I said, there are
20 three decisions in the Nuernberg Trial, which I
21 would like to read to the Tribunal. No. 80 -
22 (Reading;) "If the counsel for the prosecution
23 reads a part of the interrogation and you wish to
24 refer to another part of the interrogation, in
25 order that the part that he read should not be

1 misleading, you will be at liberty to do so when he
2 has read his part of the interrogation." 81 --

3 THE PRESIDENT: If you raise an issue when
4 they read part of an answer the only way for us to
5 decide it would be to hear the balance of the answer
6 in that particular case. We might trust you to that
7 extent, or perhaps distrust the prosecution to that
8 extent, but that would not be departing from any
9 decision that we have given. If that is all you want
10 I do not think it will be difficult to accommodate you.
11 If you charge suppression against the prosecution, it
12 is a matter we should immediately investigate and
13 deal with you if you make a wrong charge. Sup-
14 pression of facts is a form of fraud and we have to
15 deal with it if you raise it. I do not think you
16 need any further decision than that, Mr. Logan.

17 MR. LOGAN: May I say this, if the Tribunal
18 please: I am not making any charge of fraud; I am
19 making no charge of suppression of evidence. What
20 I am asking for is not that the balance of one par-
21 ticular answer be read by the defense. I am asking
22 that some other part of that statement which the
23 accused gave may be read by the defense in explana-
24 tion of some statement that they read from an ex-
25 cerpt. That is all I am asking.

1 THE PRESIDENT: That will give you too much
2 of an opportunity to intrude into the prosecution's
3 case, but if you were charging suppression by them,
4 then we would have to investigate it.

5 MR. LOGAN: If the Tribunal please, we of
6 the defense really believe that this is a fundamental
7 proposition of law. It is the same proposition that
8 is followed in all our courts, that where a document
9 in the nature of a confession of the accused is of-
10 fered in evidence, in our courts we are permitted to
11 ask that the entire document go into evidence, and
12 that the defense is permitted to read any other ex-
13 cerpts in the prosecution's case. That to us is so
14 fundamental, and that is what we are asking that this
15 Tribunal follow.

16 THE PRESIDENT: Let us understand this.
17 The balance goes into evidence as you require. The
18 only question is how much you should be allowed to
19 read. If you can say that the prosecution is
20 suppressing a material part of an answer, then we
21 will hear what the balance is, but you will be
22 practically charging suppression of facts. I am
23 supporting a decision already given by this Court.

24 MR. LOGAN: May all the defendants have an
25 exception to your Honor's ruling on that?

1 THE PRESIDENT: My colleagues agree with me.
2 You may take any exception you wish and that will be
3 noted.

4 MR. HYDER: If the Court please, I should
5 like to continue the reading of an excerpt of the
6 interrogation of the accused ARAKI taken on February
7 8.

8 THE PRESIDENT: I think you should have the
9 amplifier closer to you Mr. Hyder.

10 MR. HYDER: I begin on the second question
11 from the bottom of page 4 of the excerpt which the
12 Court has. (Reading:)

13 "Q General, why was this an extra-ordinary
14 session?

15 "A It was really an emergency session, as
16 expenditures were required which would ordinarily
17 have to be passed by the Diet and the Diet was not
18 in session at the time.

19 "Q What expenditures were required?

20 "A Expenditures for the pacification of the
21 four provinces, comprising General Chang Hsueh-liang's
22 territory. Matters at this time were very urgent
23 and could be compared to a fire, conflagration.
24 There was no time for discussions or arguments about
25 the types of pumps to be used and so forth."

1 Continuing to the third question, page 6,
2 of the excerpt which the Court has. (Reading:)

3 "Q But at this time, there was a cabinet
4 meeting in which it was agreed?

5 "A I do not remember that there was a cabi-
6 net meeting, but I do remember that I consulted the
7 Prime Minister who was comparatively the Foreign
8 Minister, the Finance Minister, and the Secretary
9 of the Cabinet.

10 "Q But the suggestion emanated from you?

11 "A Yes.

12 "Q At the preliminary meeting it was the
13 unanimous agreement of all present that the appro-
14 priation should be made and that the four provinces
15 under General CHANG should be pacified and occupied
16 by Japanese troops, was it not?

17 "A The main object of the preliminary meeting
18 was the appropriation for the army. The policy of
19 occupying and pacifying the four provinces followed
20 as a matter of course but this was not stated as a
21 definite policy.

22 "Q It was discussed, was it not?

23 "A This would have been discussed because
24 unless this was supported to the satisfaction of
25 all, the appropriation would not be granted.

1 "Q It was the unanimous agreement of all
2 present?

3 "A It was the unanimous agreement of the Privy
4 Council members present at the preliminary conference.
5 And when the question is taken up in the Imperial
6 Conference, the members who did not attend the pre-
7 liminary council would be present and the matter would
8 be discussed. Members of the cabinet would also be
9 present, and the decision would have to be unanimous."
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

W
h
a
l
e
n
&
D
u
d
a

1 "Q What was your answer in the preliminary
2 meeting to their questions on the violation of the
3 Nine-Power Treaty?

4 "A I do not think this matter was discussed
5 at the preliminary meeting.

6 "Q It was discussed at the Imperial Conference,
7 was it not?

8 "A No, it was not discussed. The only sub-
9 jects discussed were the area of occupation and the
10 object of the occupation. The violation of the Nine-
11 Power Treaty might have been discussed at other Privy
12 Council meetings but at this meeting the important
13 question was the settlement of the affair.

14 "Q The area involved of which you speak being
15 Kiorin, Mukden, Heilungking and Jehol, is that not
16 true?

17 "A Yes. At the time a discussion arose as to
18 whether it was three provinces or four provinces.

19 "Q They decided on four, did they not?

20 "A Yes, they decided on four provinces to keep
21 Chang Hsueh-liang from retreating to Jehol and
22 operating from there, it was also decided to include
23 Jehol."

24 MR. McMANUS: At this time, Mr. President,
25 may I inquire if the prosecution has these minutes

1 of the Privy Council meetings referred to in this
2 statement, and if so, whether or not they intend to
3 produce them later.

4 MR. HYDER: To my knowledge the prosecution
5 does not have the minutes of that Privy Council
6 meeting. ARAKI stated in his interrogation, and we
7 found it quite true in most instances, that the
8 records are destroyed at the end of ten years.

9 CAPTAIN KLEIMAN: May I address the Tribunal?

10 If it please the Tribunal, we have exhibit
11 83, which provides for the organization of the Privy
12 Council. We have four records of the Privy Council
13 meetings and the decisions which have been presented
14 to the defense already by the prosecution, which con-
15 tradicts the statement of the defendant ARAKI.

16 The reason why--

17 THE PRESIDENT: That is not a matter to be
18 mentioned now. We will not hear you any further on
19 this point.

20 CAPTAIN KLEIMAN: All right, sir.

21 THE PRESIDENT: We are not accepting all the
22 prosecution tells us as correct. It is all subject
23 to contradiction at the appropriate time by the
24 defense.

25 MR. HYDER: We next introduce prosecution

1 exhibit No. 10002.

2 CLERK OF THE COURT: It will receive exhibit
3 No. 188-D.

4 (Whereupon, the document above
5 referred to was marked prosecution's exhibit
6 No. 188-D for identification.)

7 MR. HYDER: These are the admissions of the
8 accused ARAKI taken on February 8, 1946, at Sugamo
9 Prison, page 6 of the interrogation.

10 THE PRESIDENT: Admitted on the usual terms.

11 (Whereupon, prosecution's exhibit
12 No. 188-D was received in evidence.)

13 MR. HYDER: We offer this portion of the
14 admission of the accused ARAKI to prove that ARAKI
15 knew that the four provinces, being the Three Eastern
16 Provinces in Manchuria and the province of Jehol, were
17 part of China and the sovereign rights of the Chinese.

18 I should like to read:

19 "Q General, did every one at this extra-ordinary
20 session know that these four provinces were of the
21 territory of China?

22 "A Yes. A member of the Diet expressed surprise
23 that four provinces were considered to be under
24 Chang Hseuh-liang's jurisdiction. He thought Man-
25 churia comprised only three provinces. He thought

1 these were called the Three Eastern Provinces from
2 ancient times.

3 "Q So this demonstrates that they knew it?

4 "A Yes. The sovereign rights were Chinese,
5 but at this time it was not definite whether these
6 four provinces belonged to Chang Hsueh-liang or
7 Chang Kai-shek, or to whom.

8 "Q That is the government you are speaking of?

9 "A Yes."

10 MR. HYDER: We next introduce prosecution
11 exhibit No. 10004.

12 CLERK OF THE COURT: Marked exhibit 188-E.

13 (Whereupon, the document above
14 referred to was marked prosecution's exhibit
15 No. 188-E for identification.)

16 MR. HYDER: These are the admissions of
17 ARAKI taken February 13, in the afternoon, page 2.
18 We offer this portion as the admissions of the accused
19 ARAKI, Sadao, to prove that the decision of pacifi-
20 cation and occupation approved by the conference was
21 embodied in ARAKI's order to General Headquarters,
22 and they took the procedure of sending troops.

23 THE PRESIDENT: Admitted on the usual terms.

24 (Whereupon, prosecution's exhibit
25 No. 188-E was received in evidence.)

1 MR. McMANUS: Mr. President, I do not like
2 to be bothering the Court with objections all the
3 time. But I think I should object again to these
4 preliminary opening statements before the introduction
5 of each document. The document speaks for itself.
6 It is the prosecutor testifying. The opening state-
7 ment has already been made. Does he have to call the
8 Court's attention and put it in the record before the
9 introduction of each document, an opening statement
10 as to what it tends to prove? The document speaks
11 for itself. It follows the opening statement of
12 Mr. Darsey.

13 THE PRESIDENT: It serves your purposes to
14 save time. What Mr. Hyder is doing now is allowed
15 at Nuernberg, strangely enough. We shall allow the
16 defense the same privilege. But it must be a very
17 short explanation, Mr. Hyder, and only when
18 necessary.

19 MR. HYDER: We submit it only to show what
20 we believe to be the ultimate facts supported by
21 the evidence.

22 THE PRESIDENT: Do not make an explanation
23 unless it is absolutely necessary in your opinion, or
24 highly desirable.

25 MR. HYDER: I should like to read:

1 "Q General, what I want to know now is -- after
2 the decision of the Imperial Conference, how did you
3 order the completion of the occupation of these four
4 provinces?

5 "A We immediately decided to send the troops
6 to Fengtien Province. The principal plan was made
7 in the War Ministry's order to General Headquarters,
8 and they took the procedure of sending the troops for
9 operation.

10 "Q Who signed the order? Did you, General?
11 The order to General Headquarters?

12 "A The principal plan approved by the conference
13 as a matter of procedure I signed.

14 "Q General, can you recall what was in the order
15 that you signed?

16 "A I don't remember.

17 "Q Would it be in the files of the War Ministry?

18 "A I don't know that. It was so long ago that
19 I am not sure whether we could find the document or
20 not.

21 "Q It was approved by the Emperor, was it not?

22 "A The Emperor knew about the plan, however the
23 order was issued by the Advisor, and as to the written
24 order a document as old as ten years they would
25 usually destroy."

1 Judge McKenzie will continue for the prose-
2 cution, if the Court please.

3 THE PRESIDENT: Well, what is the next step?

4 MR. HYDER: Judge McKenzie continues, please.

5 THE PRESIDENT: Mr. McKenzie.

6 MR. McKENZIE: If the Tribunal please, I
7 desire to offer three extracts from exhibit 58, one
8 of the basic documents, which is already in evidence,
9 the first one being document 219-C -- 219-B, I am
10 sorry.

11 CLERK OF THE COURT: Document 219-B will
12 receive exhibit No. 189.

13 (Whereupon, the document above
14 referred to was marked prosecution's exhibit
15 No. 189 for identification.)

16 MR. McKENZIE: These three excerpts are com-
17 plete telegrams showing the three assurances given
18 by the Japanese government to the United States.

19 THE PRESIDENT: Admitted on the usual terms.

20 (Whereupon, prosecution's exhibit
21 No. 189 was received in evidence.)

22 MR. McKENZIE: "The Japanese Embassy to the
23 Department of State. Statement issued after Extra-
24 ordinary Cabinet Meeting September 24, 1931.

25 "The Japanese Government has constantly been

1 exercising honest endeavors in pursuance of its
2 settled policy to foster friendly relations between
3 Japan and China and to promote the common prosperity
4 and well-being of the two countries. Unfortunately,
5 the conduct of officials and individuals of China,
6 for some years past, has been such that our national
7 sentiment has frequently been irritated. In particu-
8 lar, unpleasant incidents have taken place one after
9 another in regions of Manchuria and Mongolia in
10 which Japan is interested in especial degree until
11 an impression has gained strength in the minds of
12 the Japanese people that Japan's fair and friendly
13 attitude is not being reciprocated by China in like
14 spirit. Amidst an atmosphere of perturbation and
15 anxiety thus created a detachment of Chinese troops
16 destroyed tracks of the South Manchurian Railway
17 in the vicinity of Mukden and attacked our railway
18 guards at midnight of September 18th. A clash
19 between Japanese and Chinese troops then took place.

20 "The situation became critical as the number
21 of Japanese guards stationed along the entire rail-
22 way did not then exceed ten thousand four hundred
23 while there were in juxtaposition some two hundred
24 twenty thousand Chinese soldiers. Moreover,
25 hundreds of thousands of Japanese residents were

1 placed in jeopardy. In order to forestall immin-
2 ent disaster the Japanese army had to act swiftly.
3 The Chinese soldiers, garrisoned in neighboring
4 localities, were disarmed and the duty of maintain-
5 ing peace and order was left in the hands of the
6 local Chinese organizations under the supervision
7 of the Japanese troops.

8 "These measures having been taken, our
9 soldiers were mostly withdrawn within the railway
10 zone. There still remain some detachments in
11 Mukden and Kirin and small number of men in a few
12 other places. But nowhere does a state of military
13 occupation as such exist. Reports that Japanese
14 authorities have seized customs or salt gabelle
15 office in Yingkou or that they have taken control of
16 Chinese railways between Supingkai and Chengchiatun
17 or between Mukden and Sinmintun are entirely untrue,
18 nor has the story of our troops having ever been
19 sent north of Changchun or into Chientao any
20 foundation in fact.

21 "The Japanese Government at a special cabinet
22 meeting September 19th took decision that all possible
23 efforts should be made to prevent aggravation of the
24 situation and instructions to that effect were
25 given to the commander of the Manchurian garrison.

1 It is true that a detachment was despatched from
2 Changchun to Kirin September 21st, but it was not
3 with a view to military occupation but only for the
4 purpose of removing the menace of the South Manchurian
5 Railway on flank. As soon as that object has been
6 attained the bulk of our detachment will be withdrawn.
7 It may be added that while a mixed brigade of four
8 thousand men was sent from Korea to join the
9 Manchurian garrison the total number of men in the
10 garrison at the present still remains within the
11 limit set by the treaty and that fact cannot there-
12 fore be regarded as having in any way added to the
13 seriousness of the international situation.

14 "It may be superfluous to repeat that the
15 Japanese Government harbors no territorial designs
16 in Manchuria. What we desire is that Japanese
17 subjects shall be enabled to safely engage in var-
18 ious peaceful pursuits and be given an opportunity
19 for participating in the development of that land
20 by means of capital and labor. It is the proper duty
21 of a government to protect the rights and interests
22 legitimately enjoyed by the nation or individuals.
23 The endeavors of the Japanese Government to guard the
24 South Manchurian Railway against wanton attacks would
25 be viewed in no other light. The Japanese Government,

1 with the Chinese Government in order to prevent the
2 present incident from developing into a disastrous
3 situation between the two countries and to work out
4 such constructive plans as will once for all eradicate
5 causes for future friction. The Japanese Government
6 would be more than gratified if the present difficulty
7 could be brought to a solution which will give a new
8 turn to mutual relations of the two countries."

9 Counsel has called my attention to the fact
10 that I skipped one line, if the Tribunal please, inad-
11 vertently. "The Japanese Government, true to estab-
12 lished policy, is prepared to cooperate with the
13 Chinese Government . . ."

14 I desire, if the Court please, to offer
15 IPS document 219-C, being the second assurance, given
16 on November 24, 1931.

17 CLERK OF THE COURT: Exhibit No. 190..

18 THE PRESIDENT: Admitted subject to the usual
19 terms.

20 CLERK OF THE COURT: 219-C received exhibit
21 number 190.

22 (Whereupon, the document above
23 referred to was marked prosecution's exhibit
24 No. 190 for identification, and was received in
25 evidence.)

1 THE PRESIDENT: Mr. McKenzie, will you see
2 that ~~the~~ Judges have these documents before you start
3 to read them.

4 MR. McKENZIE: Yes, your Honor. I laid them
5 all on the Clerk's desk before I began.

6 THE PRESIDENT: Do not start to read until
7 I tell you.

8 MR. McKENZIE: Shall I proceed, your Honor?

9 THE PRESIDENT: Yes.

10 MR. McKENZIE: 219-C, a telegram.

11 "The Ambassador in Japan (Forbes) to the
12 Secretary of State. (Paraphrase) Tokyo, Novem-
13 ber 24, 1931, 10:00 p.m. (Received November 24,
14 11:45 a.m.)

15 "No. 234. With reference to the telegrams
16 of the Department. At 6 o'clock this evening I con-
17 veyed the purport of your messages to Baron SHIDEHARA.
18 The attitude of the Foreign Minister was wholly
19 conciliatory and cordial. He made the statement that
20 the Premier, the Secretary of War, the Chief of Staff,
21 and he are agreed that towards Chinchow there shall
22 be no hostile operations, and orders have been issued
23 to that effect. The clause in the draft prohibiting
24 hostilities he agrees to, but is insistent that
25 Japanese citizens must be protected by Japanese troops

1 against marauding bandits which infest the country.
2 In this respect the situation is extremely difficult
3 as these men who are actually members of marauding
4 bands claim to be soldiers one day and appear in
5 citizens clothes the next. There will be no objection
6 on the part of Japan, he states, if hostilities were
7 defined as operations between national armies. The
8 exact wording I have not undertaken to quote. The
9 retention of troops at Tsitsihar he states has no
10 political significance; and its purpose is merely
11 for picking up the dead, collecting the frostbitten
12 and wounded, and effecting evacuation. With the
13 thermometer 30 degrees below zero, troops have
14 operated over an extended area with great suffering.
15 The necessity for collection and caring for the
16 sufferers -- a matter of days -- is the reason for
17 the delay; when pressed he could not give me the
18 number of days but says he is also in complete agree-
19 ment with the officers of the War Department in the
20 policy of this evacuation; he claims that the fight-
21 ing reported in progress today is not near Chinchow
22 and is merely to drive off a force of bandits, not
23 exceeding 2,000, threatening to cut the South Man-
24 churian Railway."

25 After those assurances, if the Tribunal

1 please, I should like to refer again to the Lytton
2 Report, on page 72, beginning with the second para-
3 graph.

4 "The first--

5 THE PRESIDENT: You have already read that,
6 have you? Do not read it again. Have you already
7 read that?

8 MR. McKENZIE: No, sir, I have not.

9 THE PRESIDENT: If you have not read it
10 before you may read it now.

11 MR. McKENZIE: "The first of these operations
12 was the bombing, on October 8th, of Chinchow, to which
13 place the Provincial Government of Liaoning Province
14 had been transferred by Marshal Chang Hsueh-liang at
15 the end of September. According to the Japanese account,
16 the bombing was chiefly directed against the military
17 barracks and the Communications University, where the
18 offices of the Civil Government had been established."

19 Passing down further into the paragraph:

20 "According to Mr. Lewis, the military bar-
21 racks were in fact not touched at all and a multitude
22 of bombs fell everywhere in the town, even on the
23 hospital, as well as on the University buildings."

24 Next the Nonni Bridge operations, the last
25 two paragraphs of page 72.

1 "The next operation was that of the Nonni
2 River Bridges, which started in the middle of October
3 and ended on November 19th with the occupation of
4 Tsitsihar by the Japanese troops. The justification
5 for this given by the Japanese was that they were
6 attacked while repairing the bridge over the Nonni
7 River which had been destroyed by General Ma Chan-shan.
8 But the story must be begun earlier and an explanation
9 given of the destruction of the bridges.

10 "At the beginning of October, General Chang
11 Hai-peng, the Garrison Commander at Taonan, who in
12 former times had held the same rank as Ma Chan-shan
13 and Wan Fu-lin, and had tried to become Governor of
14 Heilungkiang Province in their place, started an
15 advance movement along the Taonan-Angangchi Railway
16 with the obvious object of seizing the Provincial
17 Government by force. It is alleged in the Chinese
18 Assessor's document No. 3, and this view is supported
19 by information from neutral sources, that this offen-
20 sive was instigated by the Japanese. In order to
21 prevent the advance of Chang Haipeng's troops, Gen-
22 eral Ma Chan-shan ordered the destruction of the
23 bridges over the Nonni river and both armies faced
24 each other across the large and swampy valley of that
25 river."

1 Pages 73, 74 and 75 cover the detailed
2 reports of that expedition and the fighting at
3 Nonni River Bridge. Then is described the Tientsin
4 Incident, and reading the last sentence from the
5 next to the last paragraph on page 75:

6 "There were two outbreaks, on November 8th
7 and 26th, respectively, but the whole affair is
8 extremely obscure."
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

G
r
e
e
n
b
e
r
g
&
B
a
r
t
o
n

1 Then follows a description of the "Outbreak
2 of November 8th, Japanese Version." And then the
3 Chinese Version" and the Outbreak of November 26th,"
4 and the "Conflicting Accounts." And, in view of the
5 fact that no conclusion is stated, they will not be
6 read.

7 The "Effect of the Tientsin disturbances on
8 the situation in Manchuria."

9 I desire to read the last two sentences from
10 the paragraph completed on page 77, and then the
11 following paragraph:

12 "They also repeatedly threw bombs on Chin-
13 chow, but news of the improved situation at Tientsin
14 soon deprived the expedition of its original object-
15 ive and, on November 29th, to the great surprise of
16 the Chinese, the Japanese forces were withdrawn to
17 Hsinmin.

18 "Another consequence of the earlier disturb-
19 ances at Tientsin was that the former Emperor, who
20 had been living in the Japanese Concession there,
21 sought a safer refuge at Fort Arthur on November
22 13th, after a talk with Colonel Doihara.

23 "The districts evacuated by the Japanese
24 were re-occupied by the Chinese troops, and this
25 fact was widely advertised. Chinese morale was

1 slightly raised; and the activities of irregular
2 forces and bandits increased. Profiting by the
3 winter season, they crossed the frozen Liao River
4 at many points and raided the country around Mukden.
5 The Japanese military authorities realised that,
6 even to maintain their existing positions, rein-
7 forcements would be necessary, and with these rein-
8 forcements they hoped to be able to get rid of the
9 menace of the Chinese concentration at Chinchow.

10 "Meanwhile, the situation in Manchuria was
11 a subject of further discussion in Geneva. When
12 accepting the resolution on December 10th, the
13 Japanese delegate stated that his acceptance 'was
14 based on the understanding that this paragraph
15 (No. 2) was not intended to preclude the Japanese
16 forces from taking such action as might be necessary
17 to provide directly for the protection of the lives
18 and property of Japanese subjects against the
19 activity of bandits and lawless elements rampant in
20 various parts of Manchuria.' Such action was ad-
21 mittedly 'an exceptional measure called for by the
22 special situation prevailing in Manchuria, and its
23 necessity would end when normal conditions should be
24 restored there.' To that the Chinese representative
25 replied 'that the injunction to the parties not to

1 aggravate the situation should not be violated under
2 the pretext of the existence of lawlessness caused
3 by the state of affairs in Manchuria,' and several
4 Council members taking part in the discussion ad-
5 mitted that 'circumstances might arise there causing
6 danger to Japanese lives and property and in such an
7 emergency it might be inevitable that Japanese forces
8 in the neighbourhood should take action.' When this
9 matter has been referred to by Japanese officers who
10 have given evidence before the Commission, it has
11 been usually asserted that the resolution of
12 December 10th 'gave Japan the right to maintain her
13 troops' in Manchuria, or made the Japanese Army
14 responsible for the suppression of banditry there.
15 In describing the subsequent operations, they assert
16 that, while executing this right against the bandit
17 forces near the Liao River, they incidentally came
18 in conflict with the remaining Chinese forces near
19 Chinchow, which were in consequence withdrawn within
20 the Great Wall. The fact remains that, having made
21 their reservation at Geneva, the Japanese continued
22 to deal with the situation in Manchuria according to
23 their plans."

24 I now desire, if the Tribunal please, to
25 introduce IPS document 219 I, which I believe is

1 exhibit No. 191.

2 CLERK OF THE COURT: That's right. Document
3 No. 219 I will receive exhibit No. 191.

4 (Whereupon, the document above
5 referred to was marked prosecution's ex-
6 hibit No. 191 for identification.)

7 MR. McKENZIE: (Reading)

8 "Telegram" to "The Ambassador In Japan
9 (Forbes) To The Secretary Of State (Paraphrase)
10 Tokyo, December 22, 1931 -- 2 p.m., (Received December
11 22 -- 5:43 a.m.")

12 May I call the Tribunal's attention to the
13 fact that there had to be a correction in this. The
14 word "noon" was left out after "after," and it occurs
15 correctly on the copies served on the Tribunal and
16 the Language Section but was not corrected in the one
17 served on counsel.

18 THE PRESIDENT: I don't have it here.

19 MR. BROOKS: If the Tribunal please, I don't
20 believe any of the defense counsel have this tele-
21 gram. I have a complete list of all the documents
22 that have been served to date in proper order, there
23 on my desk, and I don't have that telegram.

24 MR. McKENZIE: They were supposed to have
25 been served a week ago Saturday. They would not

1 accept service, and they were served early Monday
2 morning, I believe. That was a report given to me
3 when I checked on it, and I checked as late as this
4 morning to see if distribution had been made.

5 MR. BROOKS: Correction, if your Honor
6 please: It has been filed under "2191." The "I"
7 is run in as a "1." You can't tell the difference.
8 I apologize.

9 THE PRESIDENT: Proceed, Mr. McKenzie.

10 MR. McKENZIE: (Reading)

11 "Saturday afternoon Inukai called at the
12 Embassy and I quoted the words of an observer who
13 had told me that in Manchuria Japan was creating a
14 situation which was fraught with the certainty of
15 future war, for with the alienation of Manchurian
16 sovereignty China would not rest a gun. I was
17 assured by Inukai that never would Japan allow such
18 a situation to arise and never would Chinese sover-
19 eignty be impaired. He reiterated that Japan merely
20 desired the protection of Japanese persons and
21 interests, and expressed the expectation that with
22 the restoration of order and improvement in the
23 means of transportation in Manchuria there would be
24 greatly increased influx of Chinese inhabitants.

25 "In the meantime, active preparations are

1 continuing for further operations in Manchuria where
2 a free hand seems to have been given to the military."

3 Now, if the Tribunal please, I should like
4 to refer again to the Lytton Report at the bottom of
5 page 77:

6 "The 2nd Division, with the exception of its
7 garrison at Tsitsihar, was concentrated west of
8 Mukden. Reinforcements soon began to arrive; the
9 4th Brigade of the 8th Division between December 10th
10 and 15th. On December 27th, Imperial sanction was
11 obtained for the despatch of the Staff of the 20th
12 Division and another brigade from Korea. Changchun
13 and Kirin were for the time being only protected by
14 Independent Railway Guards."

15 And now on the bottom of the page, "All the
16 statements here given concerning numbers of units and
17 strength of the Japanese forces are based on official
18 Japanese information."

19 Passing now to the "Attack on Chinchow" on
20 page 78, first two paragraphs, first sentence of the
21 following paragraph:

22 "The concentrated attack of the Japanese
23 forces began on December 23rd, when the 19th Chinese
24 Brigade was forced to give up its position. From
25 that day, the advance continued with perfect regu-

1 larity and hardly met with any resistance at all,
2 the Chinese Commander having given out a general
3 order to retreat. Chinchow was occupied on the
4 morning of January 3rd and the Japanese forces con-
5 tinued their advance right up to the Great Wall at
6 Schanhaikwan, where they established a permanent
7 contact with the Japanese garrison in that place.

8 "The complete evacuation of Manchuria by
9 the troops of Marshal Chang Hsueh-liang, practically
10 without striking a blow, was not unconnected with
11 the internal conditions of China south of the Wall.
12 Reference has been made in an earlier chapter to the
13 feuds between rival Generals and it must be remembered
14 these feuds had not ceased.

15 "The comparative ease with which the offens -
16 ive down to Shanhaikwan was carried out enabled the
17 Japanese to release some of their troops from their
18 original positions and make them available for ad-
19 vances in other directions."

20 Next is "The occupation of Harbin," and
21 reading from the first few lines of the last para-
22 graph on page 78:

23 "The district which, at the beginning of this
24 year, gave more trouble than any other was that north
25 and east of Harbin, to which the remaining followers

1 of the two former Provincial Governments of Kirin
2 and Heilungkiang had withdrawn. The Chinese Generals
3 in this northern sector seemed to have maintained
4 some contact with Headquarters at Peiping, whence
5 they received some support from time to time. The
6 advance on Harbin began, as that on Tsitsihar had
7 done, by an encounter between two Chinese forces.
8 General Hsi Hsia at the beginning of January prepared
9 for an expedition to the North with the view to
10 occupying Harbin."

11 And passing now to the first paragraph at
12 the top of page 79:

13 "Colonel Doihara, now General, who, in this
14 emergency, was sent to Harbin on the 26th in order
15 to take over the office of the special Japanese
16 service there, told the Commission that the fighting
17 between the two Chinese forces around Harbin con-
18 tinued for about ten days, and that there was great
19 anxiety for the 4,000 Japanese residents, who mostly
20 lived in a menaced area, together with 1,600 Koreans
21 in the Chinese suburb of Fuchiatic, who were ex-
22 posed to the danger of massacre. In spite of the
23 fact that the anti-Kirin forces held the town during
24 ten days of continual fighting, the casualties among
25 the Korean and Japanese residents were comparatively

1 few. The latter organised themselves into armed
2 volunteer bands and helped their nationals to escape
3 from the Chinese suburb. One Japanese and three
4 Koreans are said to have been killed while trying
5 to escape. In addition, one of the Japanese aero-
6 planes, sent to reconnoitre the threatening situation,
7 was forced to land owing to engine trouble and its
8 occupants are said to have been killed by Ting
9 Chao's troops.

10 "These two incidents decided the Japanese
11 military authorities to intervene."

12 And then occurs a further description of
13 that proceeding.

14 Passing to the top of page 80, the last two
15 sentences in the first paragraph:

16 "On the evening of the 4th, the Chinese
17 position was partly taken by the Japanese troops, and
18 by noon of the 5th a final decision was reached.
19 Harbin was occupied on the afternoon of the same day,
20 and the Chinese withdrew in the direction of Sanhsing."

21 Passing now to the middle of the page:

22 "The Japanese operations since the beginning
23 of February may be summarised as follows:

24 "Towards the end of March, the main part of
25 the 2nd Division left Harbin in the direction of

1 Fangcheng in order to suppress the anti-Kirin troops
2 of Generals Ting Chao and Li Tu. The Division ad-
3 vanced as far as the region of Sanhsing and returned
4 to Harbin in the earlier part of April. By that time,
5 the 10th Division had arrived at Harbin and took over
6 the sector from the 2nd Division."

7 First sentence in the following paragraph:

8 "In the earlier part of May, the Japanese forces in
9 the north of Manchuria were further reinforced by the
10 14th Division."

11 And then two-thirds of the way down in the
12 next to the last paragraph, and completing the para-
13 graph at the bottom of the page:

14 "The Japanese claim that, during the earlier
15 part of August, the troops of General Ma Chan-shan
16 were again effectively routed and that they have
17 strong evidence that the General himself was killed.
18 The Chinese assert that the General is still alive.
19 In this action, cavalry newly arrived from Japan
20 likewise took part.

21 "During the month of August, several minor
22 engagements took place on the borders of Fengtien
23 and Jehol Provinces, mainly near the Chinchow-
24 Peipiao branch line (of the Peiping-Mukden Railway),
25 which is the only means of access to Jehol by railway.

1 There are widespread fears in China that these events
2 are only a prelude to larger military operations at
3 an early date, aimed at the occupation of Jehol by
4 the Japanese. The main lines of communication which
5 still exist between China Proper and the Chinese
6 forces in Manchuria run through Jehol, and the fear
7 of a Japanese attack in this province, which is al-
8 ready claimed as part of the territory of 'Manchukuo,'
9 is not unreasonable. Its imminence is freely dis-
10 cussed in the Japanese Press."

11 THE PRESIDENT: This will do for the time
12 being. We would like maps to guide us, if you have
13 them available, Mr. McKenzie.

14 We will recess now for fifteen minutes.

15 (Whereupon, at 1045, a recess was
16 taken until 1100, after which the proceed-
17 ings were resumed as follows:)
18
19
20
21
22
23
24
25

W
o
l
f
&
S
p
r
a
t
t

1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Mr. McKenzie, before you
4 proceed: The Judges have had a conference on the
5 question of air-conditioning in this court. We are
6 all finding the conditions of heat most oppressive.
7 This is one of the gravest cases ever tried, and for
8 its proper trial, of course, we should have reasonable
9 comfort. We have not that at present. We have been
10 promised air-conditioning for the last three, four,
11 or five months. We were told that it would be ready
12 as early as June; it is not ready yet, and we are
13 seriously thinking of adjourning until air-condition-
14 ing is installed. One of the doctors has reported,
15 and he supports our attitude. However, we know,
16 without any doctor's report, how we feel and how the
17 heat is interfering with the proper discharge of our
18 duties.

19 MR. MCKENZIE: All I can say, if the Tribunal
20 please, is that I shall be very happy to report it to
21 the authorities and see if anything can be done to
22 facilitate the matter.

23 THE PRESIDENT: Well, I can assure you we are
24 tired of promises that are being made to us about air-
25 conditioning, and we really feel that if we adjourn

1 that will speed up the air-conditioning.

2 We propose to adjourn at twelve o'clock until
3 Monday morning at 9:30, and then we will review the
4 position. We take that step with the greatest re-
5 gret, but only under the greatest provocation.

6 Yes, Mr. McKenzie.

7 MR. McKENZIE: With reference to the Tribunal's
8 request for maps, I found, upon inquiring from the
9 photostatic section, that I could probably obtain
10 photostatic copies of the maps which were originally
11 a part of the Lytton report, and deliver them to the
12 Court by tomorrow morning, if your Honor thinks they
13 would be helpful at that time.

14 THE PRESIDENT: Yes.

15 MR. McKENZIE: Passing now to the 5th para-
16 graph on page 81 of the Lytton report (reading):

17 "The information given by the Japanese
18 Assessor concludes by stating that, although the main-
19 tenance of order in Jehol is 'a matter of internal
20 policy for Manchukuo, Japan cannot be indifferent to
21 the situation in that region in view of the impor-
22 tant role played by Japan in the maintenance of peace
23 and order in Manchuria and Mongolia, and that any
24 disorders in Jehol would immediately produce very
25 serious repercussions throughout Manchuria and

1 Mongolia.' General Tang Yu-ling concludes his re-
2 port by stating that all possible measures were
3 being taken to offer effective resistance should the
4 Japanese attacks be renewed.

5 "From these communications, it seems that
6 an extension of the area of conflict in this region
7 is a contingency which must be reckoned with.

8 "Although the main Chinese Army was withdrawn
9 within the Great Wall at the end of 1931, the Japan-
10 ese continued to meet with opposition of an irregu-
11 lar kind in different parts of Manchuria. There
12 have been no further battles such as occurred on the
13 Nonni River, but fighting has been constant and
14 widely dispersed."

15 Then follows a description of the nature
16 of the resistance offered by the Chinese; the rem-
17 nants of the northeastern armies, the irregular forces,
18 the volunteers and bandits.

19 Now, I would like to turn the matter over
20 to Mr. Hyder.

21 MR. BROOKS: If the Tribunal please, I have
22 listened to this dissertation on the affair as it is
23 presented, and before making an objection as to the
24 materiality, I would like for the prosecution to
25 give us, as a point of information, whether this

1 matter, how it is related, so that I can properly
2 understand whether an objection to the materiality
3 would be proper at this time, the reason being that it
4 is, as I understand this phase of the case, involves
5 crimes against peace as charged in the Indictment,
6 and the struggle being one between the Japanese army
7 and the Chinese army. Now, as I understand the sit-
8 uation disclosed from the evidence being put in here,
9 this is not the Chinese Army of Nanking, or as
10 recognized by the Allies or this Court as being the
11 Chinese Army that should be considered as the na-
12 tional army.

13 THE PRESIDENT: Your plain duty is to ob-
14 ject, if you think that the evidence is not material.
15 It is not for the prosecution to try to educate you
16 on the point. You object now; that is your position.
17 Give the grounds of your objection. But your atti-
18 tude is most unusual. I have never known it to be
19 taken before. Do you want to object or do you not?

20 MR. BROOKS: I wish to object, if the Court
21 please, but I thought, in fairness to the prosecu-
22 tion -- I understand the prosecution has the duty of
23 bringing out everything before the Court. It may be
24 possible that they are bringing this phase in to be
25 fair, in showing the extent, because the last remark

1 they said was these men were rebels, robbers, and
2 bandits. If that is the purpose I would not object
3 to their presenting, before the Court, for their in-
4 formation, but it, if it is to show aggressive acts,
5 I question the materiality to show the aggressive-
6 ness of the Japanese if it is not against the national
7 army of China, because the circumstances show, and
8 it is shown today in this morning's paper, these
9 same people are still fighting the nationalists in
10 China.

11 THE PRESIDENT: We take it you are object-
12 ing. Now let us hear your grounds.

13 MR. BROOKS: The basis for the objection is
14 that the prosecution, if it is placed to show an
15 act of aggression -- that they have not connected it
16 up -- they have entirely presented the matter of
17 facts that occurred which are proper for defense,
18 but the defense wishes to present its own case, if it
19 please the Court, and at the proper time. But this
20 matter as presented at this time does not show a war
21 of aggression, or an aggressive act on the part of
22 the Japanese against the duly constituted authorities
23 of China, because these men, by the evidence read
24 into the case, were bandits and rebels, acting as
25 soldiers one day and citizens the next, and have,

1 therefore, not been recognized as the true authority
2 of the national army as such, and their aggression is
3 against the Japanese residents and people. There was
4 something, as stated, that was provided for by treaty
5 -- by the armed forces that were there. It is not in
6 excess of the treaty rights, and, therefore, is im-
7 material to that part of the case, if it is pre-
8 sented for that part alone. If it is something else,
9 I have failed to see where it is connected up.

10 THE PRESIDENT: If there is anything in
11 this objection, it should have been taken days ago,
12 when this line of evidence was opened up. We are all
13 of opinion there is nothing in the objection, and it
14 cannot be sustained.

15 MR. McKENZIE: If the Tribunal please, I
16 have just been handed a note from Eugene Williams
17 asking me to please advise the Court that the prosecu-
18 tion has those two witnesses from China, of whom they
19 would like to have their testimony taken, if possible,
20 before the Court adjourns, or some provision made for
21 it.

22 THE PRESIDENT: We are adjourning on the
23 grounds that the conditions of heat are such that
24 we cannot discharge our duties in the way we think
25 we should; and that applies to Chinese evidence as

1 well as to any other.

2 MR. HYDER: The prosecution next introduces
3 prosecution's document No. 1871. It is the summary
4 of Japanese war crimes in China from September 18,
5 1931, to August 13, 1937.

6 CLERK OF THE COURT: That will be given
7 exhibit No. 192.

8 MR. HYDER: It is a document prepared by
9 and sealed with the official seal of the Ministry
10 of Foreign Affairs, Republic of China. We ask that
11 this exhibit number be for identification and
12 future reference.

13 (Whereupon, the document above
14 referred to was marked prosecution's exhibit
15 No. 192, for identification.)

16 We next introduce document No. 1871 C.
17 That is a portion of section 1, pages 3 to 4, of
18 court exhibit No. 192.

19 CLERK OF THE COURT: That will be given
20 No. 192 A.

21 (Whereupon, the document above
22 referred to was marked prosecution's exhibit
23 No. 192 A, for identification.)

24 MR. HYDER: I should like to read it.
25 (Reading.)

1 "After the occupation of the three provinces
2 Liaoning, Kirin, and Heilungkiang, the Japanese con-
3 tinued to carry out their plan of westward expansion.
4 In the Spring of 1932, when the war in Shanghai was
5 concluded, their Army in the Chinese Northeastern
6 Provinces was reinforced. In the middle of July,
7 1932, on the pretext that a Japanese officer by the
8 name of ISHIMOTO was missing, the Japanese started
9 to invade Jehol. Two general offenses were launched
10 in July and August respectively. They failed to
11 gain ground on account of the Chinese garrison forces
12 in the front and Chinese volunteers operat-
13 ing in their rear. Yet the Japanese issued the
14 fantastic declaration that Jehol Province was the
15 territory of 'Manchukuo'; a pretext for its eventual
16 occupation. Meanwhile, more reinforcements were
17 sent to prepare another invasion on a grand scale.
18 For the remaining half of the year, besides occupying
19 quite a number of Chinese key points, small scale
20 attacks occurred from time to time. There was no
21 peace. At the beginning of the year, 1933, the
22 Battle of Yu-Kwan (Shanhaikwan) was started, the key
23 points along the Great Wall, such as Shanhaikwan and
24 Kiumenkou fell into Japanese hands, the strategical
25 situation of Jehol became very critical. On 22 Feb-

1 ruary 1933, in the name of puppet 'Manchukuo,' the
2 Japanese Army sent to the Chinese an ultimatum,
3 stating that Jehol was not Chinese territory and
4 demanding that Chinese forces in the Jehol Province
5 be withdrawn within 24 hours. On 25 February 1933,
6 war broke out. The Japanese Army, from their bases
7 in Tungliao and Sui-Chung advanced in three columns
8 and commenced the general offense. For both mili-
9 tary and political reasons, the Province of Jehol
10 eventually fell into Japanese hands on 2 March 1933."

11 I should like to point out that the accused,
12 KOISO, Kuniaki, was Chief of Staff of the Kwantung
13 Army from August, 1932, to March, 1934; and that
14 the accused, ARAKI, was Minister of War during this
15 time.

16 May Mrs. Llewellyn continue for the prosecu-
17 tion?
18
19
20
21
22
23
24
25

G
o
l
d
b
e
r
g
&
Y
e
l
d
e
n

1 MR. FURNESS: If the Court please, is this,
2 as I understand it Exhibit No. 192, is not in evi-
3 dence? It is just marked for identification. Is
4 that correct?

5 MR. HYDER: That is correct.

6 MR. FURNESS: Then might I ask whether this
7 excerpt is covered by an exception which the Court
8 has allowed to rule 6 (b)?

9 MR. HYDER: This document is in Chinese, if
10 the Court please, and was in the rule. May I read
11 a portion of the rule applicable?

12 THE PRESIDENT: Has it been tendered yet?

13 MR. HYDER: Yes, the document has been ten-
14 dered.

15 THE PRESIDENT: It is admitted subject to
16 the usual terms.

17 (Whereupon, prosecution's exhibit No.
18 192 was received in evidence.)

19 MR. FURNESS: This is a long document and I
20 understand under Rule 6 the entire document has to be
21 served on us if excerpts are introduced unless the
22 Court allows an exception to Rule 6 (b). All I am
23 asking is whether that exception has been allowed.

24 MR. HYDER: May I read the portion of the
25 rule which we believe governs?

1 THE PRESIDENT: Well, what is the position?
2 Is it covered by any order of the Court?

3 MR. HYDER: No, it is not, your Honor. We
4 believe that we came within the part of the rule
5 which I should like to read, if I may.

6 "If the document is in a language other
7 than English or Japanese" -- this document is in
8 Chinese -- "it shall be sufficient for the purpose
9 of this provision if a translation into English or
10 Japanese, as the case may be, of such a document,
11 is delivered to the prosecution or the accused con-
12 cerned or his counsel, and to such officer."

13 THE PRESIDENT: You appear to have com-
14 plied with the rule.

15 MR. HYDER: Mrs. Llewellyn will continue
16 for the prosecution.

17 MRS. LLEWELLYN: Mr. President and Members
18 of the Tribunal, the prosecution offers for identifi-
19 cation document No. 1870.

20 CLERK OF THE COURT: Document 1870 will
21 receive No. 193.

22 MRS. LLEWELLYN: Exhibit No. 193 is known
23 as the Tangku Truce and is dated 31 May 1933. The
24 prosecution offers this document to prove that a
25 demilitarized zone was established in the northeastern

1 part of the Province of Hopei and that under its
2 terms the Chinese National Army was forced to with-
3 draw south and west of this zone.

4 THE PRESIDENT: Admitted subject to the
5 usual terms.

6 (Whereupon, prosecution's exhibit
7 No. 193 was received in evidence.)

8 MRS. LLEWELLYN: The attention of the
9 Tribunal is invited particularly to Articles II
10 and III. This is the Tangku Truce referred to in
11 the testimony recently by General TANAKA.

12 "(I) The Chinese Army shall be immediately
13 withdrawn to the West and to the South of the line
14 running through Yen-Chin, Chan-ping, Kao-Li-Ying,
15 Shun-Yi, Tungchow, Hsiang-Ho, Pao-Ti, Ling-Ting-Kou,
16 Ning-Ho and Lu-Tai. The Chinese Army henceforth shall
17 refrain from taking all acts of provocation or dis-
18 turbance.

19 "(II) The Japanese Army, in order to ascer-
20 tain the actual carrying out of the provisions in (I),
21 may from time to time use aeroplanes and other means
22 for observation. This shall be accorded due protection
23 and various facilities by the Chinese side.

24 "(F&I) The Japanese Army, having ascer-
25 tained the carrying out of the provisions in (I) by

1 "the Chinese Army, shall not cross the above defined
2 line in pursuit and shall all voluntarily withdraw
3 to the Great Wall line.

4 "(IV) The maintenance of order in the
5 region South of the Great Wall and to the North
6 and to the East of the above defined line shall be
7 entrusted to the Chinese police force. The said
8 police force shall not employ armed groups which
9 might provoke the feelings of the Japanese.

10 "(V) This Truce shall come into effect
11 immediately after being signed and sealed."

12 Mr. HYDER will continue with the documentary
13 evidence.

14 MR. HYDER: The prosecution next intro-
15 duces our document No. 1871-D.

16 THE CLERK OF THE COURT: Document No. 1871-D
17 will receive Exhibit No. 194.

18 MR. HYDER: This is a portion of Section
19 XIX, pages 105 to 107 of Court Exhibit No. 192.

20 THE PRESIDENT: Admitted subject to the
21 usual terms.

22 (Whereupon, prosecution's exhibit
23 No. 194 was received in evidence.)

24 MR. HYDER (Reading):

25 "In the middle of May 1935, two Chinese by

1 "the name of HU SU-PAO and PAI YU-HUNG were assassinat-
2 ed in the Japanese Concession at Tientsin. Seizing
3 this opportunity and blaming the Chinese for these
4 assassinations, the Japanese tried to develop a
5 situation to their advantage. SAKAI, Ruy, Chief of
6 Staff, Japanese Garrison Forces in North China and
7 T.KAHASHI, Tan, Assistant Military Attache of the
8 Japanese Embassy, called upon General HO YING-CHIN,
9 Chairman of the Peiping Branch Council, National
10 Military Council. They stated that the Japanese
11 Army considered the assassinations of HU and PAI
12 as Chinese acts of provocation against the Japanese
13 Garrison Forces. If such actions, unfavorable to
14 Japan and "Manchukuo", should continue to occur,
15 then the Japanese Army would probably take drastic
16 actions. They further demanded that General YU-HSUEH-
17 CHUNG be voluntarily transferred to some other post,
18 and the Third Battalion of Chinese Military Police,
19 the provincial and the municipal Kuomintang Party
20 offices in Hopei Province, Bureau of Political
21 Training of the Branch Council, and the so-called
22 "Blue Shirts" as alleged by the Japanese be withdrawn
23 too. In order to maintain the peace and the diplo-
24 matic relation, the Chinese Government thereupon
25 voluntarily ordered the dismissal of CHEN KUO-TSIN,

1 "Chief of the Bureau of Political Training, CHIANG
2 HSIAO-SIEN, Commander of the Third Battalion of
3 the Chinese Military Police, and TING CHAN, Vice
4 Commander of the same battalion. Meanwhile, the
5 National Government also decided to suspend the
6 work of the Party office in Tientsin, and to transfer
7 the Governor of Hopei Province to some other post,
8 and to order local authorities to trace down the
9 assassins. But the Japanese were still unsatisfied
10 with all these changes and decisions. Soon after,
11 the Japanese again demanded that all Party offices
12 in Hopei Province be entirely abolished, the 51st
13 Army, the 2nd Division and the 25th Division of the
14 Central Army be withdrawn, and all anti-Japanese
15 activities be banned. These demands, furthermore,
16 should be acceded and put into effect at once, other-
17 wise, the Japanese Army would take unrestricted
18 actions. As the situation at that time was so
19 serious and grave, the Chinese Government in great
20 pain agreed to compromise for the sake of peace.
21 All Party offices in Hopei Province were voluntarily
22 closed, the 51st Army, and so forth, were respectively
23 transferred to other areas, and the National Govern-
24 ment reiterated the ban on anti-Japanese movements.
25 The Incident of Hopei Province was thereby concluded."

1 The prosecution next introduces the pros-
2 ecution document No. 1242.

3 CLERK OF THE COURT: Document No. 1242
4 will receive exhibit No. 195.

5 MR. HYDER: This is a letter from NISHIO,
6 Chief of Staff of the Kwantung Army, dated December 9,
7 1935, to FURUSHO, Vice Minister of War, received
8 December 12, 1935.

9 THE PRESIDENT: Admitted on the usual terms.

10 (Whereupon, prosecution's exhibit
11 No. 195 was received in evidence.) ~

12 ..
13 MR. HYDER: I should like to read excerpts
14 of our offer, if I may.

15 (Reading): "Kwantung Army's Propaganda
16 Plan Which Shall Be Carried Out in Parallel with
17 its Military Activity in North China.

18 "I. General Principle. We start our propa-
19 ganda to convince the whole world of our lawfulness,
20 as soon as the advancement of the Kwantung Army into
21 China Proper takes place. We shall launch out on a
22 movement to estrange the inhabitants of North China
23 from the central government, by fermenting anti-
24 Kuomintang and anti-communism agitation among them."

25 "II. The program of propaganda." Paragraph
5. "It must be made clear that when we do dispatch

1 "our military force to China some time in the future,
2 we do it for the purpose of punishing the Chinese
3 military clique, and not the Chinese people at large."

4 Paragraph 8. "Our propaganda for Manchuria
5 will be, that the appearance of the independent
6 government in North China is nothing but a concrete
7 manifestation of their longing for the fine admin-
8 istration of the Manchurian government, and it will
9 brighten the future of Manchuria."

10 "III. Execution program."

11 "1. Propaganda shall be planned and carried out
12 by the Army staff. The special service facilities
13 in China and Inner Mongolia and also the expeditionary
14 forces there shall also perform the duty.

15 "2. Prior to the advance of our military forces
16 into China Proper, this propaganda shall be launched,
17 chiefly to support from the side, the propaganda of
18 the Japanese government and the Japanese forces
19 stationed in China. After the advance of our forces
20 into China proper, it shall be performed so as to
21 facilitate our military activities.

22 "3. Propaganda within their sphere of activities
23 shall be carried out in conformity with the above-
24 mentioned plan by the dispatched Force. As a rule,
25 personnel necessary for such propaganda shall be

1 "raised by the dispatched troops. But, if it is
2 impossible for them to raise the necessary personnel,
3 Army staff section will solicit them. Propaganda
4 section will be dispatched directly from the Army,
5 if necessary.

6 "4. A close connection with the Japanese
7 forces and various Japanese agents in China shall
8 be maintained in the execution of this plan,"

9 The prosecution next introduces its doc-
10 ument No. 1871A.

11 CLERK OF THE COURT: Document No. 1871A
12 will receive exhibit number 196.

13 MR. HYDER: This is a portion, Section
14 VI, pages 21 to 22 of Court Exhibit No. 192.

15 THE PRESIDENT: Admitted on the usual terms.

16 (Whereupon, prosecution's exhibit
17 No. 196 was received in evidence.)

18 MR. BROOKS: If the Tribunal please, on
19 this exhibit 195, it is apparent that this is a prop-
20 aganda plan which was part of an administrative order
21 of the Japanese Army, and I would like to request the
22 prosecution, if possible, if they have it, to make
23 available to the defense the balance of the administra-
24 tive order so it can be studied to see what this
25 discussion was in line with.

1 MR. HYDER: If we have the reply or request
2 for this letter or report, we will be glad to furnish
3 it.

4 THE PRESIDENT: If you have what?

5 MR. HYDER: This is a letter referred to,
6 Court exhibit number 195. So far as our files indi-
7 cate, it is the only document we have. We do not
8 have the reply to it, if there was one, nor the
9 request; but if we do, we shall furnish it.

10 MR. BROOKS: If the Court please, there
11 were two parts delivered to the defense and the
12 first document, 1242, which is a heading or the
13 outside, states this is a report dated December 9,
14 1935, from NISHIO, Chief of Staff of the Kwantung
15 Army to the Vice Minister of War. Now, I don't know
16 what the paragraph number of that would be, of a
17 propaganda plan, but I know that an administrative
18 order would have such a plan -- it is not a letter,
19 it is a report -- and that an administrative order
20 has a propaganda plan along with the line of operations;
21 and I think in the American Army, paragraph five, if
22 we have a plan of propaganda that goes along that
23 and that activity is taken care of, and I wanted to
24 see what the rest of that document was, and in what
25 relation, and if it was ever used. It would be very

1 relevant in this case.

2 MR. HYDER: On our document 1242 which is
3 Court exhibit 195 now, originally, when this report
4 or letter was mimeographed, they left off the title
5 of what it was. It simply started out "Kwantung
6 Army's Propaganda Plan" which was in re, or subject
7 of the report, or letter as translated to us. I
8 made the request myself for the information of the
9 defense so that they would know -- have the complete
10 report or letter to show them what it was. This
11 document is complete in itself; and so far as I know,
12 this is a complete translation in English.

13 MR. BROOKS: The defense problem on that
14 is that since this heading is left off, we think
15 the original should be made available so that we
16 can find the administrative order and paragraph
17 because it is customary in armed circles for a
18 tentative plan to be presented to higher authorities.
19 Now whether that was utilized or not, we do not know.
20 There has not been any showing of that yet. If the
21 prosecution does not show that, I want to at least
22 have the opportunity of ascertaining what the document
23 was, and if it was put in force, and by whom, because
24 that would be relevant, who passed upon it, and
25 whether it was in force in full or whether it was

1 altered or changed.

2 THE PRESIDENT: I think many of these
3 differences could be solved if the defense referred
4 to Mr. Darsey, the head of the section, in the first
5 instance. It seems a pity to be coming to us until
6 redress cannot be secured from Mr. Darsey. It seems
7 to me to be a waste of time.

8 MR. BROOKS: My purpose was, in objecting
9 to this, that it should not be allowed to go in
10 unless there is a complete caption as was furnished
11 us originally which was not put in on this part
12 and shows the document itself, its numbers and so
13 forth, so that such is before the Court and will be
14 tied in when it is read so that later on when we
15 are able to recover the balance of it, it will
16 necessarily tie up, fit into the picture, and be
17 explanatory of who was involved.

18 MR. HYDER: The original complete document
19 is in evidence now as Court exhibit 195, the entire
20 document.

21 THE PRESIDENT: Well, I don't see that any
22 more is necessary.

23 MR. HYDER: The prosecution next introduces
24 prosecution document number 724A.

25 CLERK OF THE COURT: Document number 724A

1 will receive exhibit number 197.

2 MR. HYDER: These are cables numbers 331:1,
3 331:2, being dispatched on October 2, 1935 by
4 WAKASUGI, Secretary General to the Japanese Embassy
5 in Peiping. It is addressed to the Foreign Minister
6 HIROTA, Koki, an accused in this case.

7 THE PRESIDENT: Admitted on the usual terms.

8 (Whereupon, prosecution's exhibit
9 No. 197 was received in evidence.)

10 MR. HYDER: I would like to read short
11 excerpts from each telegram -- cable.

12 THE PRESIDENT: Yes.

13 MR. HYDER (Reading): "My observations of
14 the recent situation in this area lead me to believe
15 that the Army is intending to organize a combined
16 self-government (practically an Independent State)
17 out of the five provinces of North China free from the
18 domination of the Nanking Government for the sake
19 of national defence and of forming an economic bloc
20 of Japan, Manchuria and North China, and ultimately
21 for the sake of politics, finance and economy."

22 Cable 331:2, first paragraph. "In addition
23 to the aforesaid, the Japanese Forces' Mongolian
24 policy is making steady progress as I and the Consul
25 at Changchiakou repeatedly reported to you. The

1 "other day Maj. Gen. DOIHARA made a trip from
2 Chiangchiakou to Chengte and back and saw the Governor
3 of Chahar Province and Prince Te; his mission was
4 no doubt to promote the Inner-Mongolian self-govern-
5 ment. The Okura Gumi recently set up a subsidiary
6 company, Tameng Co.(with its head office at Hsin-
7 ching, and with Tuolun and Changchiakou as the
8 centres of its activity)for the purpose of economic
9 development in Inner Mongolia at the request of the
10 Japanese Army. It is merely a help to the above
11 policy.

12 "As stated above, the Japanese Army's
13 farsighted scheme is under steady progress."

14 Prosecution next introduces document
15 number 1871B --

16 THE PRESIDENT: We won't take any more
17 documents today. We will adjourn now until
18 nine-thirty on Monday next.

19 (Whereupon, at 1200, an adjournment
20 was taken until Monday, 15 July, 1946, at
21 0930.)
22
23
24
25

- - - -